



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,521	01/27/2004	Benjamin C. Wald	M09728	1019

7590 06/01/2005

William D. Lanyi, Esq.
Mercury Marine
W6250 Pioneer Road
P.O. Box 1939
Fond du Lac, WI 54936-1939

EXAMINER

FRISTOE JR, JOHN K

ART UNIT PAPER NUMBER

3751

DATE MAILED: 06/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/765,521

Applicant(s)

WALD ET AL.

Examiner

John K. Fristoe Jr.

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17-20 is/are allowed.
- 6) ☒ Claim(s) 1,2,10 and 12 is/are rejected.
- 7) ☒ Claim(s) 3-9,11 and 13-16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/27/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed 1/27/2004 is acknowledged by the examiner.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all 'obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, 10, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 6,824,119 (Conley et al.) in view of U.S. Pat. No. 6,758,458 (Ando et al.). Conley et al. disclose a throttle body assembly comprising a throttle plate (2), a generally cylindrical (fig. 2) throttle body conduit (28), a first generally semicircular half (the bottom portion in figure 5 of element 2), a second generally semicircular half (51), a block of material (50) on the second generally semicircular half (51), the block of material (50) having a first major surface (underneath element 50 in figure 5), a second major surface (disposed on the same side of element 50 as fins 8 in figure 5), the block of material (50) having a first edge (the circular edge in figure 5), a second edge (the flat portion of element 50 in figure 5), the block of material (50) being generally symmetrical (figure 5), the block of material (50) having a central region (the middle portion of element 50 in figure 5), the block of material (50) having a first and second distal regions (the outside portions of element 50 in figure 5), the thickness of the block of material decreases from the central portion to the distal portions (figure 5), the thickness of the block of material (50) decreases from the first edge to the second edge (figure 5), but lacks the

Art Unit: 3751

block of material being placed on a half of the throttle plate that rotates downstream of the throttle body assembly. Ando et al. teach a throttle valve assembly comprising a throttle body (1), a throttle plate (3), a first block of material (10) connected to a half of the throttle plate (3) that rotates upstream of the throttle assembly, a second block of material (11) that is connected to a second half of the throttle plate (3), and the second block of material (11) is located on the upstream side (figure 5) of the throttle plate (3). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the throttle assembly having a block of material that is placed on the half of the throttle plate that rotates upstream of the throttle assembly of Conley et al. by adding a block of material on the half of the throttle plate that rotates downstream of the throttle valve assembly as taught by Ando et al. in order increase the noise abatement of the valve assembly and to increase the ease of assembly of the valve by allowing for multiple alignments of the throttle plate within the valve assembly.

Allowable Subject Matter

4. Claims 17-20 are allowed.
5. Claims 3-9, 11, and 13-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 6,003,490 (Kihara et al.) discloses a throttle valve assembly having a block of material on the half of the throttle plate that rotates upstream of the throttle assembly,

Art Unit: 3751

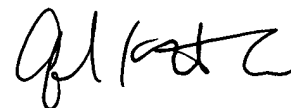
U.S. Pat. No. 3,176,704 (De Palma) discloses a throttle assembly having a block of material that is on the half of the throttle plate that rotates downstream of the throttle assembly.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John K. Fristoe Jr. whose telephone number is (571) 272-4926.

The examiner can normally be reached on Monday-Friday, 7:00 a.m.-4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine R. Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John K. Fristoe Jr.
Examiner
Art Unit 3751

JKF



EDWARD K. LOOK
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

5/31/05